



Missouri Department of Revenue

# Tax Bulletin

Volume 4, No. 3

Fall 1995



## *'Directly' Speaking . . .*

I would like to thank all tax practitioners for contributing to the success of our 1995 tax busy season! Approximately 40% of Missouri's individual income tax returns are prepared by tax practitioners. Employees of the Department of Revenue consider tax practitioners to be some of their most valuable customers and partners because they help ensure that taxpayers comply with the tax laws on a timely and error-free basis. We appreciated your assistance this year and look forward to your continued support during the next tax busy season. We are currently trying to show our appreciation by working toward improving our existing services and providing new options to make compliance with the tax laws more user-friendly.

This year, the Department was able to process all timely filed, error-free individual income tax returns by May 30, a week ahead of last year. All but a few of the late refund returns were processed by the August 15th statutory deadline. This was no small feat, given

the difficulties the Department experienced in hiring enough temporary help to facilitate the routine processing. One of our goals for next busy season is to continue to push the internal processing deadline back for all types of returns without substantially increasing production costs.

Next January, however, the Department intends to offer a new service that will help you and your clients find out the current status of their individual income tax returns while waiting for the mail. This new telephone system will permit a taxpayer or his/her authorized preparers to dial in, and enter the relevant social security number and other information (for security reasons) from the tax return. This will enable the system to access the return and tell the caller when the taxpayer can expect to receive his/her refund. We hope this new service will help to alleviate our very busy phone lines during the next and future busy seasons so that we can provide even better service to you.

We have almost completed upgrading to the next phase of our individual electronic filing program. Next year,

the Department will start accepting the MO-CR form electronically if only one other state is involved. Also, we have continued to work closely with the software vendors and anticipate that many more of the electronic tax preparation packages offered will include Missouri forms. The Department is also currently gearing up to start a new pilot project for electronically filing business returns. Hopefully by next January we will have started testing the electronic filing of withholding tax returns and payments with a few volunteer companies. Assuming that the pilot is successful, we will expand the program to include more businesses and, eventually, more types of returns. We also plan to launch a pilot project for telefiling simple returns during the next busy season. For example, if your client needs to file a no-balance-due return for withholding tax, you could simply key in the information on the telephone keypad, saving the cost of preparing and mailing a paper return. This method could also be used for filing simple individual income tax returns.

The Department also plans to expand our very successful Forms-By-Fax

*see 'Directly' page 2*

## Electronic Filing Update

by Maria Micke, Tax Program Coordinator  
(314) 751-3930

Electronic filing of individual income tax returns was a success in 1995. Plans are being completed which should make 1996 an even better year. Electronic filing of withholding tax returns will also be

tested in 1996. Updates on both topics are discussed below.

### **Update on Electronic Filing**

Changes to the electronic filing program for tax year 1995 are as follows:

No paper copy of Form MO-CR will be required if only one state is involved. **If more than one state is involved, an electronic return can not be filed.**

*see Electronic page 2*

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## Electronic

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The MO-8453 (Signature Document) can be used as the payment document if the payment is made at the time the MO-8453 is being mailed. No MO-9282 (Payment Document) would be necessary in this situation. If payment is made at a later date, the MO-9282 may be used. Taxpayers may still file early and receive a billing notice to pay later. No MO-9282 would be required.

The direct deposit process has been streamlined. Refunds should be direct deposited on the day the manual check would have been mailed.

We will be utilizing a new on-line computer Bulletin Board System (BBS) to get publications, forms and other information to those interested. Missouri's file specifications/record layouts, handbook for electronic filers, test package for software developers, forms, *Tax Bulletin* and law changes will be available on this BBS for download. The MO-8453, MO-9282, handbook and file specifications/record layouts for electronic filers have been revised and are available for download. The test package for software developers is currently being developed and will be placed on the BBS when complete.

We at the Department are looking forward to another successful year. If you are interested in electronic filing, please contact the Missouri Department of Revenue, Tax Program Coordinator (314) 751-3930.

### Update on Business Tax Electronic Filing

The Department has acquired the services of TaxConnect to develop withholding tax electronic filing. TaxConnect is a not-for-profit corporation offering electronic filing

## 'Directly'

from page 1

program to include several federal tax forms. In addition, we will make available by diskette all forms that are included in the Package MoX.

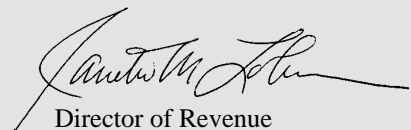
Moving right along with the twentieth century, we are pleased to report that the Department's own computer bulletin board came on-line earlier this month. Although this new system is still in test phase, you are welcome to log on and explore the possibilities the board offers. When the system is completely operational, you will be able to access downloadable tax forms, sanitized letter rulings, informational bulletins, proposed regulations and other appropriate data. So, if you have a modem and computer, I hope you will take advantage of this exciting new service. The number is (314) 751-7846. The service is free; only normal telephone line charges apply.

Finally, I would like to conclude by alerting you to a few new tax law changes included in recent legislation. Senate Bill 374 has removed the 12% minimum interest rate for delinquent taxes and has replaced it with a floating rate, without a minimum, that is tied to the adjusted prime rate each Septem-

ber. This law also provides several new sales and use tax exemptions. House Bill 174 provides for new income tax credits if the corporations or individuals have participated in certain education, job and violence prevention programs. House Bill 414 has also expanded the Business Facility and Enterprise Zone tax credit program and includes several other sales and use tax exemptions. Finally, Senate Bill 109 expanded the definition of livestock to include elk and certain aquatic products, thus expanding farm-related sales and use tax exemptions to producers of these products.

All of us at the Department of Revenue are trying to provide the best service possible to all Missouri taxpayers. Please take a moment to complete and return the customer service questionnaire included in this issue. We will publish the results in the next edition.

Again, many thanks for your past, current and future support!



Director of Revenue

services to states and will develop the pilot program. The Department's pilot project will consist of five to ten participants that will electronically transfer withholding tax information to the Department. An Automated Clearing House credit will be initiated for payment of tax due.

The pilot project will be expanded after successful testing. When further information is available, it will be posted on the BBS and in future issues of the *Tax Bulletin*.

If you have any questions, comments or suggestions about the electronic filing program or the business tax electronic filing pilot project, please write to: Missouri Department of Revenue, Tax Program Coordinator, P.O. Box 371, Jefferson City MO 65105-0371.



Missouri Department of Revenue

Mel Carnahan, Governor; Janette M. Lohman, Director of Revenue; Robert G. Schemenauer, Director Division of Taxation and Collection  
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# Letter Rulings

by Ken Pearson, Administrator,  
Tax Administration Bureau, (314) 751-3804

This issue of the Tax Bulletin contains a listing of letter rulings issued during the period January through August 1995.

Letter #	Description
L7571	Depreciable type service station.
L7779	Separately stated membership dues & athletic dues.
L7786	Motor vehicle leases.
L7719	Labor costs and management fees.
L7809	Toner used in a copier.
L7811	Pallet carriers and containers.
L7812	Items purchased for ultimate delivery & use outside the U.S.
L7830	Long distance phone service.
L7897	Sales by out-of-state business.
L7915	Shipping & handling charge.
L7921	Shipping & handling charges.
L7928	Helicopters used as common carrier.
L7959	Reimbursement of property tax.
L7990	Motor vehicle leases.
L8004	Catalog & cafeteria sales.
L8077	Dual operator use of project exemption certificate.
L8079	Permanent domicile.
L8099	Motor vehicle leasing.
L8119	Applicable sales tax rate for auto lease.
L8120	Missouri consolidated corporate return.
L8121	Missouri consolidated corporate return.
L8128	Purchase of cellular telephone.
L8130	Installed materials.

L8129	Printed materials produced by non-profit organization.	L8411	Acceptance of census.
L8228	Aircraft loans.	L8412	Purchase of construction materials.
L8303	Rental of satellite dishes.	L8417	Intrastate charter bus service.
L8304	Membership dues, tickets, fund raisers, athletic supplies and facilities.	L8423	Shipments from Missouri distribution center to out-of-state location.
L8306	Separately stated labor charges.	L8425	Design, printing and mailing coupons.
L8281	Low income housing credit.	L8266	Project exemption certificate.
L8364	Meals and hotel rooms.	Copies of the sanitized version of these letter rulings are available at a cost of \$1.10 plus sales tax of 6.225% each by writing to the Department of Revenue, Tax Administration Bureau, P.O. Box 629, Jefferson City, MO 65105-0629.	
L8368	Lease financing transaction.		
L8374	Withholding requirements for non-resident shareholders.		
L8408	Gross receipts received by insurance company for sale of loss equipment.		

## 1995 Tax Form Changes

by Dwayne Maples, Printing Services Coordinator,  
Office of Divisional Support Services, (314) 751-5855

**MISSOURI TAX CREDITS - The HIGHER EDUCATION SCHOLARSHIP FUND CREDIT** has been added to form MO-TC. For more information, forms and approval to claim the credit, contact the Missouri Department of Higher Education, P.O. Box 6730, Jefferson City, MO 65102 or call (314) 751-3940 or (800) 473-6757.

In addition, the **ABANDONED PROPERTY TAX CREDIT** has also been added to form MO-TC. For more information, forms and approval to claim the credit, contact the Missouri Department of Economic Development, Tax Benefit Programs, P.O. Box 118, Jefferson City, MO 65102-0118 or call (314) 751-6835.

**CORPORATION INCOME TAX FORMS AND INSTRUCTIONS** - The Corporation Income Tax Return MO-1120 for 1995 includes two changes. At the top of the return a new field has been added to identify if you are filing a federal form 990C or 990T. In addition, Part 3 of MO-1120 has been revised to include three new lines (4, 5 and 6), which will be used to compute the federal income tax deduction if filing a consolidated federal and separate Missouri return.

**MISSOURI STANDARD DEDUCTION** - The Missouri Standard Deduction is equivalent to the Federal Standard Deduction and will reflect the federal changes for 1995. The 1995 Standard Deductions are: Single - \$3,900, Married filing jointly or Qualifying widow(er) - \$6,550, Head of household - \$5,750 and Married filing separate - \$3,275.

# Rules Take Effect

by Vickie Wood, Legislative Secretary  
Office of Legislation and Regulations,  
(314) 751-2110

There are several rules relating to taxes that either have recently gone into effect or will become effective in the near future. A short recap of each rule is listed below along with the rule number and remarks about the effective date of the regulation.

**12 CSR 10-2.015 Employer's Withholding of Tax.** Amendment

increases the threshold that determines the filing frequency of withholding tax accounts, reducing the burden on small business taxpayers.

Proposed Amendment - Appeared in the September 1, 1995 *Missouri Register*. In comment period until October 2, 1995.

**12 CSR 10-2.016 Quarter-Monthly Period Reporting and Remitting Withholding Tax.** Amendment increases the threshold that determines the filing frequency of withholding tax accounts, reducing the burden on small business taxpayers.

Order of Rulemaking - Appeared in September 1, 1995 *Missouri Register*.

**12 CSR 10-3.626 Quarter-Monthly Period Reporting and Remitting Sales Tax.** This amendment increases the threshold that determines the filing frequency of sales tax accounts, reducing the burden on small business taxpayers.

Order of Rulemaking - Appeared in September 1, 1995 *Missouri Register*.

If you would like to receive a copy of any of the rules listed above, please contact the Secretary of State, Administrative Rules Division, P.O. Box 778, Jefferson City, MO 65102.

## What's New in Revenue

by Dean Powell, Manager, Office of  
Divisional Support Services,  
(314) 751-3651

**FORMS BY FAX** - The Department is expanding the Fax-on-Demand system for the 1995 tax year to include several more forms for a variety of tax types i.e. sales, use, withholding, etc. This system is available 24 hours a day, 7 days a week by calling (314) 751-4800 from your fax machine handset. Only current year forms are available on this system. The 1995 forms will be available on the Fax-on-Demand system after December 18, 1995.

**MISSOURI DEPARTMENT OF REVENUE BULLETIN BOARD SYSTEM** - The Department established its own on-line Bulletin Board System (MODOR BBS) on September 5, 1995. To access the Bulletin Board, dial (314) 751-7846 from your personal computer equipped with a modem and communications software.

Once you enter the system you will be asked to enter your User-ID

and password. If you are logging on for the first time, enter "new" when prompted to enter your User-ID. If you are a new user, the system will take you through a brief questionnaire to establish your "account".

After entering your User-ID and password or completing the questionnaire, the system will take you to the Main Menu. From there you may select any option displayed on the screen. **Please remember to write down your password for future use.**

The Department plans to have most tax forms, tax publications, law changes, the *Tax Bulletin* and many other informational articles available on the Bulletin Board.

NOTE: All files that are available for downloading are in either ASCII format or PDF format - to view the PDF files you must download the Adobe Acrobat Reader and install the reader on your computer system - the reader applications are found in the "File Viewer" library. The service is free of charge; only normal telephone line charges apply.

**COMPOSITE INCOME TAX RETURNS FOR S CORPORA-**

**TIONS AND PARTNERSHIPS** - S corporations and partnerships filing a composite income tax return on behalf of shareholders/partners who are nonresidents of Missouri, are reminded that the correct rate of income tax is 6%. In accordance with the change in Chapter 143, RSMo, the Department, amended Regulation 12 CSR 10-2.190, and changed the rate from 3% to 6% effective January 1, 1994.

**REFUND INQUIRY LINE** - The Department will offer an automated individual income/property tax credit refund inquiry line. Beginning January 1996, taxpayers will be able to check the status of their current tax year refunds. To protect the privacy of the taxpayer, the system will require input of three items to access the refund information. These three items are: the first social security number on the return, the filing status and the exact amount of the refund in whole dollars. The toll free number to access the inquiry line is (800) 411-8524.

# Court Cases

by General Counsel's Office,  
(314) 751-2633

## Sales Tax

**Dan Hubbard, d/b/a Diamond "D" Training Center v. Director of Revenue**, Case No. 94-000199RV (AHC, 7/25/95).

The Director issued assessments to Dan Hubbard, d/b/a Diamond "D" Training Center (Taxpayer) for failure to collect and remit sales taxes on the sale of horses. The Taxpayer claimed he was not engaged in the business of selling horses because he made little or no profit. Taxpayer argued against the tax liability based on his lack of knowledge of his responsibility to collect and remit sales taxes on his sales of horses, the failure of the Department to notify him of that duty and the failure of other horse sellers to collect and remit sales taxes. Taxpayer made general claims of exemption for the sale of horses for breeding and feeding purposes under Section 144.030.2(7), RSMo, sales in interstate commerce and sales for resale.

The Administrative Hearing Commission (AHC) found that horses may be sold at retail. The volume of sales made by the Taxpayer established the fact he was engaged in the business of making retail sales of horses. The AHC did not address the fairness issue or the Taxpayer's claim of lack of knowledge. It found the Taxpayer was subject to sales taxes on his gross receipts from the sales of the majority of the horses because he had failed to present any exemption certificate or otherwise establish the exempt nature of the transactions. AHC did find that the sale of one horse was a sale in interstate commerce and another was an exempt sale under Section 144.030.2(7), RSMo.

## Sales Tax

**Fowler Bus Company, Inc., d/b/a Excelsior Ice Company v. Director of Revenue**, Case No. 94-002059RV (AHC, 6-29-95).

Fowler Bus Company (Taxpayer) was engaged in the business of manufacturing and selling ice cubes at wholesale. Taxpayer expanded its plant facilities to produce more ice cubes and it purchased "merchandisers," which were ice bins placed at the business location of the company's customers to preserve, maintain and display the ice. The merchandisers were purchased from out-of-state vendors and the company did not pay Missouri sales or use tax. The Department audited the Taxpayer's business records and assessed use tax on the purchase of the merchandisers.

Taxpayer claimed the purchases of the merchandisers were exempt from use tax under Sections 144.030.2(5) and 144.615(3), RSMo, as machinery and equipment purchased for the purpose of plant expansion. It argued the merchandisers were part of an integrated plant because they were necessary to

maintain the ice in a frozen state. The Department argued that the purchases of the merchandisers were not exempt as "plant expansion" because the merchandisers were not a part of the manufacturing process. The merchandisers could not be part of an integrated manufacturing plant because the manufacturing process was complete before the ice was placed in the merchandisers.

The Administrative Hearing Commission (AHC) found the company liable for use tax on the purchase of the merchandisers because they were not an integral part of the manufacturing process. The manufacturing process was complete prior to the placement of the ice in the merchandisers and title to the ice had passed to the customer when the ice was placed in the merchandisers. AHC refused to find that the manufacturing process could continue after passage of title to the tangible personal property. The AHC further found the Taxpayer was not liable for additions to tax because the Taxpayer reasonably believed its purchases of the merchandisers were not subject to taxation.

## Sales Tax

**Galamet, Inc. v. Director of Revenue**, Case No. 94-000060RV (AHC, 5/11/95).

Galamet, Inc (Taxpayer) reprocessed automobiles and "white goods" into "shredded auto scrap." This scrap was then used by steel manufacturers to produce steel products. Taxpayer claimed the machinery and equipment purchased and used in its business was exempt from sales tax as provided in Section 144.030.2(5), RSMo (equipment used directly in manufacturing in new or expanded plant). The Director issued sales tax assessments because the Taxpayer was not manufacturing a product.

The Administrative Hearing Com-

mission (AHC) agreed with the Director. The Taxpayer was not engaged in "manufacturing" a product. The AHC held the Taxpayer was not liable for additions to tax.

The AHC found that Taxpayer's activities constituted a "process," and the Taxpayer met its burden of proving it qualified for the Electrical Energy Direct Pay Authorization (EEDPA) based on its 1990 figures. The AHC further stated that if a refund claim was filed by the utility company, Taxpayer must establish, to the Director's satisfaction, that it qualified for the electrical energy exemption for 1991.

This case has been appealed to the Missouri Supreme Court.

## Income Tax

**Charles O. and Martha A. Hielt v. Director of Revenue**, 899 S.W.2d 870 (Mo. banc 1995).

Charles O. and Martha A. Hielt (Taxpayers), with their son, sold an incorporated Florida business. The business went into bankruptcy and in 1985, Taxpayers and their son obtained control of it. In June of 1990, Taxpayers changed their residence from Florida to Missouri. On July 17, 1990, Taxpayers moved to Willow Springs, MO, where they now reside. In December 1991, the Florida bankruptcy court issued an order directing payment to Charles O. Hielt of "deferred administrative salaries." Charles Hielt received \$523,000 which Taxpayers reported on their 1991 federal income tax return and on their 1991 Missouri individual income tax return; however, on the Missouri return, they deduct-

ed \$483,750 because they believed the income was earned while they were residents of Florida.

Director assessed additions to tax for failure to timely pay under Section 143.751, RSMo 1994, and failure to pay estimated tax penalty under Section 143.761, RSMo 1994, as well as tax and interest. The Administrative Hearing Commission (AHC) resolved the tax and interest issues favorably to Director in its decision **Martha A. Hielt v. Director of Revenue**, Case No. 94-000348RI (AHC, 10/31/94), but determined failure to pay additions were improper because of Taxpayers' good faith belief no tax was due and that underpayment of estimated tax penalty was improper because Taxpayers' belief they did not owe tax attributable to the deferred administrative salaries was reasonable. Director appealed the AHC's decisions on the failure to pay additions and

underpayment of estimated tax penalty.

The Supreme Court (Court) held that "negligence" as used for failure to pay additions (Section 143.751, RSMo 1994) means "failure to make a reasonable attempt to comply with the state tax laws" and that "good faith" as used in **Lloyd v. Director of Revenue**, 851 S.W.2d 519 (Mo. banc 1993) only bears on the issue of reasonableness. Taxpayers' argument that only income earned in Missouri need be reported to Missouri was refuted by established caselaw. The Court stated: "On the record before us, it is patently unreasonable for these taxpayers who are faced with a complex and unique tax situation to take a deduction of hundreds of thousands of dollars without reliance on the advice of a lawyer or an accountant." The Court held that Taxpayers had failed to establish reasonableness and failure-to-pay additions were appropriate, and reversed the AHC on this issue.

Using the same standard of reasonableness in evaluating the AHC's decision regarding underpayment of estimated tax penalty (Section 143.761, RSMo 1994), the Court reversed the AHC's decision that the Director's assessment of underpayment of estimated tax penalty was erroneous.

## Sales Tax

**Steven M. Wilson and Richard J. Bouffleur, d/b/a Show-Me Automotive v. Director of Revenue**, Case No. 94-001643RV (AHC, 6/14/95).

Steven M. Wilson and Richard J. Bouffleur (Taxpayers) appealed the sales tax assessments issued to Taxpayers for the April 1991 and September 1991 through January 1992 tax periods. Taxpayers were partners in a business called Show-Me Automotive. In April of 1991, Taxpayers entered into an amended partnership agreement. Pursuant to this amended agreement, all operational control of the partnership was vested in Wilson. Bouffleur became a "silent" partner in Show-Me Automotive. Bouffleur kept his original investment in the partnership and still was entitled to an equal share of the profits and a salary under the agreement. Show-Me Automotive filed for bankruptcy in May of 1991, and the bankruptcy court dismissed the action in January of 1995.

On appeal, Bouffleur advanced the following arguments: He was not liable for the sales tax debts of the partnership subsequent to the execution of the amended partnership agreement due to his status as the "silent" partner and the bankruptcy filing relieved him of liability for the assessed tax.

The Administrative Hearing Commission (AHC) held that Bouffleur was personally liable for the assessed tax, interest and additions to tax. The AHC found that the amended agreement between Bouffleur and Wilson did not explicitly limit Bouffleur's responsibility for tax liabilities. The AHC also stated that even if Bouffleur could show that the agreement transferred his liability to his partner Wilson, the agreement did not alter Bouffleur's liability to the Director. The AHC also found that the bankruptcy of Show-Me Automotive did not discharge the partners from their sales tax liability.

## State Holidays

State offices will be closed in observance of the following holidays.

<b>November 10</b>	Veterans Day
<b>November 23</b>	Thanksgiving Day
<b>December 25</b>	Christmas Day
<b>January 1</b>	New Years Day

## Transportation

**Reidy Terminal, Inc. v. Director of Revenue**, 898 S.W.2d 540 (Mo. banc 1995).

Reidy Terminal, Inc. (Taxpayer) filed a request for repayment for fees paid into the underground storage tank insurance fund. This fund pays for clean-up of leaks from underground-only tanks. Taxpayer operates barges on the Mississippi River and is a "first-receiver" of petroleum products in Missouri. Although Taxpayer stores oil in tanks in Missouri, the tanks are all above ground and none is below ground.

The Department of Natural Resources (DNR) was made a co-defendant in this case as the pertinent statute, Section 319.132.1, RSMo, states this fee is to be assessed by the DNR on all "first receivers of petroleum products," regardless of whether the receiver has above or below-ground storage. The fees were assessed on Department of Revenue forms and deposited to the credit of the Department of Revenue.

The Supreme Court held that the application of Section 319.132.1, RSMo, as applied against Taxpayer is a violation of Art. I, Section 8 of the U.S. Constitution because it is an impermissible burden on interstate commerce and because Taxpayer is absolutely ineligible to receive any benefit from its payments into the fund.

## Income Tax

**Robert W. and Darlean J. Skrdlant v. Director of Revenue**, Case Nos. 94-001541RI and 94-001542RI, (AHC, 7/19/95).

The Administrative Hearing Commission (AHC) held that the doctrine of collateral estoppel required the AHC to find the same income tax liability for Robert W. and Darlean J. Skrdlant (Taxpayers) as was determined by the Cass County Circuit Court in a prior proceeding.

On 3/22/94, the Cass County Circuit Court entered judgment against Taxpayers for tax of \$589.16 for 1980 and \$602.15 for 1981, plus interest. On 6/21/94, the Director issued Notices of Deficiency assessing tax of \$650.14 for 1980 and \$603.35 for 1981, respectively, plus interest and additions to tax. After final decisions were issued, the Taxpayers appealed the assessments to the AHC.

The AHC determined that the doctrine of collateral estoppel prevented Taxpayers from arguing the issue of tax liability because it had already been decided against them in the Cass County case. The AHC applied this doctrine because these four factors were present: (1) the issue decided in the earlier action was

identical to the issue presented in this action; (2) the earlier action was decided on the merits; (3) the party to be precluded was a party in the prior action; and (4) the party to be precluded had a full and fair opportunity to litigate the issue.

AHC concluded that the correct tax liabilities were those determined by the Circuit Court. The AHC did accept evidence offered by the Taxpayers showing \$440.96 in withholding for 1980 and a \$100 payment for 1981 and credited these amounts against the tax liabilities. The AHC also determined that the Taxpayers were liable for interest and additions to tax for failure to file returns.

## Income Tax

**Herschend v. Director of Revenue**, 896 S.W.2d 458 (Mo. banc 1995).

The question presented for the Supreme Court's (Court) decision was whether the Tennessee excise tax qualified shareholders of an S corporation for a credit pursuant to Section 143.081, RSMo, which provides resident taxpayers with a credit for income tax paid to another state. The Herschends (Taxpayers) were Missouri residents and shareholders in an S corporation. The S corporation conducted business in the State of Tennessee and paid excise tax to the State of Tennessee.

The Court concluded that under Missouri law the Tennessee excise tax was an income tax, and that the Taxpayers were entitled to a credit on their Missouri tax return for their proportionate share of the Tennessee excise tax paid by the S corporation. In reaching its holding, the Court did not look to the federal definition of "income tax" pursuant to Section 143.091, RSMo. Instead, the Court compared the mechanics of the Tennessee excise tax and Missouri's corporate income tax. The Court determined that the two taxes were mechanically identical and the Tennessee excise tax was an income tax for purposes of Section 143.081, RSMo.

### Important DOR Phone Numbers

Form ordering (toll free) .....	(800) 877-6881
Form order questions .....	(314) 751-5337
Forms by fax .....	(314) 751-4800
Missouri Department of Revenue Bulletin Board System ...	(314) 751-7846
Electronic filing information .....	(314) 751-3930
Individual Income/Property Tax Credit Refund Inquiry Line	(800) 411-8524

Effective January 1, 1996 the 314 area code listed for the above numbers will change to 573.

## IRS seeks help locating erroneous OBRA notices

The IRS is seeking tax practitioners' help in locating taxpayers who may have received erroneous notices about the payment of their retroactive 1993 taxes, as permitted by the Omnibus Reconciliation Act (OBRA).

According to a recent IRS news bulletin, some taxpayers who attempted to use this payment option had their payments returned to them or received erroneous refunds because IRS computers were unable to handle the required changes.

The OBRA allowed certain categories of taxpayers to pay their retroactive 1993 taxes in three installments. Taxpayers could pay the installment by check, using a voucher provided, or apply all or part of the 1994 overpayment to the 1993 balance. Taxpayers were to write "1993 OBRA Installment" on their 1994 returns if they wished to apply the refund against the installment, or on their checks if they were making a payment.

The IRS said its computer was to be reprogrammed to handle the special payment arrangement, but that early in the 1995 filing season, it became apparent that the computer had not accommodated the changes. Many taxpayers who had not used the special voucher had their payments returned to them. Others who had elected to apply the refund to the second installment received the full refund instead.

Despite the IRS's efforts to correct the situation, many taxpayers received either incorrect or premature bills, or were advised they were "in default" and could not use the installment plan. Although the IRS was able to identify and correct accounts of taxpayers who received erroneous notices dated July 3, 1995, it has been unable to identify taxpayers who received notices after this date.

The IRS is asking affected taxpayers who received incorrect notices to contact their regional Service Centers. Practitioners should call the practitioner hotline. The Service Centers are equipped to handle OBRA-related account problems, according to the IRS.

In addition to taking taxpayer and practitioner calls, the IRS has also begun reviewing computer-generated OBRA bills and default notices to ensure their validity before they are mailed. The IRS stated that no lien, levy or other collection action will be taken on affected taxpayers.

Next year, the IRS plans to send notices reminding taxpayers of the 1996 installment due date. The special payment vouchers will contain clearer instructions and special bar-coded envelopes to identify the payments as OBRA installments. The service plans to continue its special review of all OBRA-related notices and refunds before they are mailed.

The IRS asserts that modernization of its computer systems will help prevent future errors of this type.

## Tax Calendar Due Dates for October – December 1995

### October

- 2 Motor/Special Fuel Reports
- 4 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment
- 12 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment
- 16 MO-1120 & MO-1120S with an Automatic Extension
- Cigarette Tax Credit Account and Return
- MO-1065 & MO-1041 with an Approved Extension
- Other Tobacco Products Monthly Reports
- 18 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment
- 20 Cigarette Tax Cash Accounts Return
- 25 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment
- 30 Quarterly Insurance Tax Payments
- 31 Monthly Sales/Use Tax Returns
- Quarterly Sales/Use Tax Returns
- Quarter-Monthly Withholding Reconciliation

### Quarterly Withholding Returns

- Monthly Withholding Returns
- Motor/Special Fuel Reports
- Tire Fee
- Quarterly Interstate Fuel Tax User Report

### November

- 3 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment
- 10 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment
- 15 Quarter-Monthly Withholding Reconciliation
- Monthly Withholding Returns
- Cigarette Tax Credit Account and Return
- Other Tobacco Products Monthly Reports
- 20 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment
- Monthly Sales/Use Tax Returns
- Cigarette Tax Cash Accounts Return
- 28 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment
- 30 Motor/Special Fuel Reports

### December

- 1 Quarterly Insurance Tax Payments
- 5 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment
- 12 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment
- 15 Declaration of Estimated Tax for Calendar Year Corporations
- Quarter-Monthly Withholding Reconciliation
- Monthly Withholding Returns
- Cigarette Tax Credit Account and Return
- Other Tobacco Products Monthly Reports
- 20 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment
- Monthly Sales/Use Tax Returns
- Cigarette Tax Cash Accounts Return
- 28 Quarter-Monthly Sales Tax
- Quarter-Monthly Withholding Payment





MISSOURI DEPARTMENT OF REVENUE  
DIVISION OF TAXATION AND COLLECTION  
**MISSOURI TAX FORM AND  
PUBLICATION ORDER**

FORM  
**MO-33**  
(REV. 9-95)

DLN

The Missouri Department of Revenue's Form MO-33 is designed to assist you in ordering Missouri state tax forms.

Any combination of ten (10) forms, with the exception of listed tax publications, may be ordered without charge. To offset shipping, handling and printing costs, orders exceeding a total of ten (10) forms must be accompanied by payment of \$10.00 per hundred forms (or fraction thereof) requested. Please use the price chart at the bottom of this page when figuring the amount due. Tax publications, which are sold at a set cost per unit, may also be ordered on the bottom of this page.

Orders will be filled and shipped in the order received, as soon as all requested forms and publications are available for distribution. Partial shipments, with the exception of the Missouri Package Mo-X, will not be made. Orders may be submitted at any time. We do, however, ask that you order your entire anticipated annual supply at one time. In order for our office to provide you with your forms and publications in a timely manner, please place your order prior to December 1, 1995. Forms will be shipped approximately January 1, 1996. If you place an order for 1995 tax forms, a 1996 order form will automatically be sent to you in September, 1996.

**NOTE: ANY ORDER RECEIVED WITHOUT CORRECT PAYMENT, INCLUDING SALES TAX, WILL BE RETURNED TO YOU UNPROCESSED.**

**FORMS AVAILABLE BY FAX**

The major 1995 Missouri tax forms will be available by fax December 1, 1995. To access our "Fax on Demand" system call (314) 751-4800 from your **fax machine handset**. The "Fax on Demand" system will take you through the steps necessary to fax you a copy of the forms you need, if available. Only current year tax forms are maintained on the "Fax on Demand" system.

**MISSOURI DEPARTMENT OF REVENUE BULLETIN BOARD (MO DOR BB)**

The Missouri Department of Revenue established its own on line Bulletin Board beginning September 5, 1995. To access the Bulletin Board the number is (314) 751-7846. The Department plans to have most tax forms, tax publications, law changes, the *Tax Bulletin*, and many other informational articles available on the Bulletin Board.

**ADDRESS INFORMATION (PLEASE PRINT OR TYPE)**

COMPANY NAME

ATTENTION (IF NEEDED)

PHONE NUMBER

STREET ADDRESS (PLEASE DO NOT USE POST OFFICE BOXES)

CITY

STATE

ZIP CODE

**COMPLETE THE REVERSE SIDE OF THIS FORM FIRST. THEN PROCEED BELOW.**

**TAX PUBLICATIONS**

	PUBLICATION NAME	COST PER PUBLICATION	REVISION DATE	AMOUNT REQUESTED	TOTAL
A	Package Mo-X/DOR Tax Bulletin Subscription (Combination of B and C below)	\$ 14.00	1995		
B	Package Mo-X - Contains <b>1995</b> Missouri Tax Forms	\$ 8.50	1995		
C	<i>Tax Bulletin</i> Subscription - Published 3 times yearly	\$ 6.00	1996		
D	Income Tax Law Booklet	\$ 7.00	1995		
E	Sales/Use Tax Law Booklet	\$ 7.00	1995		
F	Financial Institution Tax Law Booklet	\$ 7.00	1995		
G	Motor/Special Fuel Tax Law Booklet	\$ 7.00	1995		
H	Cigarette & Tobacco Products Tax Laws & Rules Booklet	\$ 7.00	1995		
I	Estate Tax Law Booklet	\$ 7.00	1995		
J	Camera Ready Copies of Missouri Income Tax Forms and Instructions – Books 1-7	\$ 18.00	1995		
K	Form 2643 – Missouri Tax Registration Application (1-3 Free)	\$ 3.50	1995		
L	1995 Missouri Tax Forms and Instructions on Diskette <input type="checkbox"/> Windows <input type="checkbox"/> Mac	\$ 12.00	1995		

**TOTAL PUBLICATIONS ORDERED AND TOTAL COST OF PUBLICATIONS**

**PRICE CALCULATIONS**

1. Total number of forms ordered (from back of form)	
2. Cost of forms ordered (see price chart on the right)	
3. Cost of publications ordered (from above)	
4. Sub Total (add Lines 2 and 3)	
5. Tax (multiply Line 4 by 6.225%)	
6. TOTAL DUE (add Lines 4 and 5)	

**PRICE CHART**

No. of Forms	Cost
0-10 .....	Free
11-100 .....	\$ 10.00
101-200 .....	\$ 20.00
201-300 .....	\$ 30.00
301-400 .....	\$ 40.00
Each Add'l 100 .....	\$ 10.00

After completion, send this form with a check or money order made payable to "Director of Revenue" to: **MISSOURI DEPARTMENT OF REVENUE, P.O. BOX 3022, JEFFERSON CITY, MO 65105-3022.**

INDIVIDUAL INCOME TAX FORMS				CORPORATION INCOME TAX FORMS			
	AMOUNT REQUESTED	FORM NUMBER	FORM DESCRIPTION		AMOUNT REQUESTED	FORM NUMBER	FORM DESCRIPTION
A		1040/MO-A	Individual Income Tax Return and Adjustments	A		1120	Corporation Income Tax Return
B		1040A	Individual Income Tax Return Short Form	B		1120X	Amended Corporation Income Tax Return
C		60	Application for Extension of Time To File	C		2220	Corporation Underpayment of Estimated Tax
D		CR	Credit for Income Taxes Paid to Other States	D		1120ES	Declaration of Estimated Tax for Corporations
E		NRI	Nonresident Income Percentage	E		MS	Corporation Allocation and Apportionment of Income
F		CRP	Certification of Rent Paid	F		8821	Authorization for Release of Confidential Information
G		PTC	Property Tax Credit Claim	G		472A	Application for Tax Credit/Refund
H		1041	Fiduciary Income Tax Return	H		MO-C	Missouri Dividends Deductions
I		NRF	Nonresident Fiduciary Form	I		1120S	S Corporation Income Tax Return
J		1065	Partnership Return of Income	J		NRS	S Corporation Nonresident Form
K		NRP	Nonresident Partnership Form	K		MSS	S Corporation Allocation and Apportionment Form
L		2210	Underpayment of Estimated Tax By Individuals	L		TC	Miscellaneous Income Tax Credits
M		1040ES	Estimated Tax Declaration for Individuals	M		DOR-2827	Power of Attorney
N		DOR-1937	Request for Photocopy of Missouri Income Tax Return				<b>TOTAL CORPORATION INCOME TAX FORMS ORDERED</b>
O		DOR-374	Statement of Nonresidency				
P		DOR-558	Military Information				
<b>TOTAL INDIVIDUAL INCOME TAX FORMS ORDERED</b>				<b>EMPLOYER'S WITHHOLDING TAX FORMS</b>			
SALES/USE TAX FORMS					AMOUNT REQUESTED	FORM NUMBER	FORM DESCRIPTION
	AMOUNT REQUESTED	FORM NUMBER	FORM DESCRIPTION	A		941	Employer's Report of Income Taxes Withheld
A		53-1	Sales Tax Return	B		941X	Withholding Tax Overpayment Amended Report
B		53U-1	Use Tax Return	C		941U	Withholding Tax Underpayment Amended Report
C		126	Registration Change Request	D		941XX	Quarter-Monthly Amended Withholding Tax Return
D		472	Request for Sales/ Use Tax Cash Bond Refund	E		941P	Quarter-Monthly Payment of Income Taxes Withheld
E		472-B	Application for Tax Refund/Credit	F		941R	Annual Reconciliation Report of Income Taxes Withheld
F		1746	Missouri Sales/Use Tax Exemption Application	G		941F	Employer's Withholding Final Report
G		149	Multi-Jurisdiction Sales Tax Exemption Certificate	H		941W	Monthly Report of Quarter-Monthly Payments
<b>TOTAL SALES/USE TAX FORMS ORDERED</b>				I		2034	Application for Withholding Tax Refund
				J		W4	Employee's Withholding Allowance Certificate
				K		96	Annual Summary and Transmittal of Form MO-99
				L		99 MISC	Information Return for Recipients of Miscellaneous Income
				<b>TOTAL EMPLOYERS WITHHOLDING TAX FORMS ORDERED</b>			
<p>Questions concerning the completion of this form, or form and publication orders in general, may be addressed by calling (314) 751-5337, Monday through Friday, 7:45 a.m. to 4:45 p.m. Orders for a total of ten (10) or less forms may also be made by calling (800) 877-6881. These publications are available upon request in alternative accessible formats, TDD 1-800-735-2966.</p>							

## Customer Service Survey

1. The Department has eight taxpayer service field offices throughout the state. Have you used any of the field offices during the past year?

☐ Yes ☐ No

If you answered yes, please rate the service you received:

☐ Excellent ☐ Above Average  
☐ Average ☐ Below Average ☐ Poor

2. During the 1995 income tax filing season, the Department conducted a pilot program to contact practitioners directly for missing documentation. If the required documents were not attached to an individual's return, the Department telephoned authorized practitioners for the missing documentation. Were you contacted this year?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average  
☐ Average ☐ Below Average ☐ Poor

3. The Department began a 24-hour forms by fax service (314-751-4800) during the 1995 individual income tax filing season. Have you called our Forms By Fax line?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average  
☐ Average ☐ Below Average ☐ Poor

4. Did you call the Forms Order Line (800-751-6881 or 314-751-5337) during the 1995 individual income tax filing season?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average  
☐ Average ☐ Below Average ☐ Poor

5. Did you call the Individual Income Tax Assistance/Refund Line (314-751-3505) during the 1995 individual income tax filing season?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average  
☐ Average ☐ Below Average ☐ Poor

Comments: \_\_\_\_\_

6. During the past year, have you called the Central Registration Information Line (314-751-5860) with business-related registration questions?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average  
☐ Average ☐ Below Average ☐ Poor

Comments: \_\_\_\_\_

7. Have you participated in the Internal Revenue Service's Electronic Filing Program?

☐ Yes ☐ No

8. Have you participated in the joint IRS/Missouri Electronic Filing Program?

☐ Yes ☐ No

If you answered yes, please rate this service:

☐ Excellent ☐ Above Average  
☐ Average ☐ Below Average ☐ Poor

Comments: \_\_\_\_\_

9. How does the service you received from the Department in 1995 compare with the service you received in 1994?

☐ Better ☐ Same ☐ Worse

Comments: \_\_\_\_\_

Please answer the following questions if you have a tax practice:

10. Number of clients your business serves:

☐ 0-100 ☐ 101-500 ☐ 501 and up

11. Taxes your business prepares:

☐ Individual ☐ Corporate  
☐ Sales ☐ Withholding  
☐ Other(specify)

12. Location of most of your clients:

☐ St. Louis Area ☐ Kansas City Area  
☐ Outstate ☐ Out-of-state

Optional:

NAME \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

CITY, STATE \_\_\_\_\_

ZIP CODE \_\_\_\_\_

The Department is conducting a survey of the services available to our customers. Please take the time to complete the survey and return it to the Missouri Department of Revenue, Tax Bulletin, P.O. Box 629, Jefferson City, MO 65105-0629, or by facsimile to (314) 751-9287. Thank you.

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**Tax Bulletin**  
**Missouri Department of Revenue**  
**P.O. Box 629**  
**Jefferson City, MO 65105-0629**

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